

### **Remarks**

Claims 1-4, 6-9, 11-17 and 19-22 are pending in this application. Claims 5, 10 and 18 have been canceled. Claims 1, 11, 19, 20 and 22 are in independent form. Claims 8, 9 and 17 have been indicated as being allowable, if rewritten in independent form including the limitations of any intervening claims.

### **Arguments**

The present invention is directed to a floor drain and a method of installing a floor drain wherein the drain is adjustable to orient the position of the drain relative to its surroundings.

Claims 1-4, 6, 7, 20 and 21 are rejected under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent No. 6,269,495 to Sondrup. The Office Action asserts that Sondrup teaches each and every feature of the claims including a drain body (18, 20) defining a drain cavity (22); a frame (14 and se) having a securable end (se) received by the drain body and an exposed end (ee) wherein the frame is rotatable relative to the drain body for adjusting the position of the frame exposed end; a clamp (16, 24) for fixing the securable end of the frame to the drain body; and a grate (12) received by the exposed end of the frame, wherein the drain body comprises a ledge (18a) having a sloped surface and the frame securable end slidably engages the surface of the sloped surface of the ledge when the frame is rotated relative to the drain body.

Applicant respectfully traverses this rejection for the following reasons.

Sondrup teaches a completely different drain design than the present invention. The Office Action refers to the "drain body" of Sondrup as being shown by components (18, 20); however, the Sondrup actually refers to component (18) as being a first plate. The "frame (14)" referred to in the Office Action is actually a funnel member or connector channel in the reference. The securable end (se), shown in the Office Action, is not a portion of the "frame (14)", but rather the rounded ring pivot member referred to as (26) in Sondrup. The "clamp (16, 24)" referred to in the Office Action is actually referred to as a securing bolt (16) and a second plate (24) in the reference. The "drain body comprises a ledge (18a)" of the Office Action is actually referred to in Sondrup as the lower spherical surface (18a) of the first plate (18) which slidably engages the rounded ring or pivot member (26), not the "frame (14)" as stated by the Examiner. Furthermore, this "ledge (18a)" is not sloped as specifically recited in the claims, i.e., it does not meet the generally known

definition of slope which is to slant or incline away from a relatively straight surface or line used as a reference, but rather forms a circular surface. Accordingly, Sondrup fails to teach the specific components of the drain as set forth in the claims.

For the reasons set forth above, it is respectfully requested that the rejection of claims 1-4, 6, 7, 20 and 21 under 35 U.S.C. §102(b) be withdrawn as Sondrup fails to teach each and every feature of these claims.

Claims 11-16, 19 and 22 are rejected under 35 U.S.C. §103(a) as being unpatentable over Sondrup. With respect to claims 11-16, the Office Action merely states that these claims are an obvious method of using the drain of Sondrup. This statement is provided without any supporting comments. As noted above, Sondrup fails to teach the claimed drain; therefore, Sondrup also fails to teach an “obvious” method of using/installing the drain as specifically recited in these claims.

With respect to claim 19 the Office Action acknowledges that Sondrup fails to disclose all of the claimed elements including the clamp body comprising a drain body engaging surface (sur) providing a gap (g) between a portion of the drain body engaging surface and the drain body. Likewise, the reference fails to disclose all of the claimed elements of claim 22, although the office action is silent with respect to this claim. The Office Action surmises that this “sloped” limitation is “considered a matter of design choice” as the equivalent Sondrup surfaces provide the same function, as disclosed in the specification of the present application, equally well.

Applicant respectfully traverses this rejection for the following reasons.

As shown in detail above, the Sondrup drain has a completely different design, completely different components and is installed in a completely different manner than the drain of the present invention. Accordingly, Sondrup fails to teach “all of the claimed elements” *except* for a sloped surface. Sondrup does not teach any “equivalent” surfaces with the claimed invention. Accordingly, since such surfaces are not present, one having ordinary skill in the art would not have been motivated to make these “nonequivalent” surfaces “sloped” as a matter of design choice.

For the reasons set forth above, it is respectfully requested that the rejection of claims 11-16, 19 and 22 under 35 U.S.C. §103(a) be withdrawn as Sondrup fails to render these claims obvious.

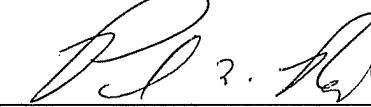
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**Conclusion**

In view of the comments set forth above, it is respectfully requested that all claims remaining in the application, namely claims 1-4, 6-9, 11-17 and 19-22, be allowed and the application be passed to issue.

Respectfully submitted,  
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